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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,537	08/05/2005	Wolfgang Rohde	LU 6034 (US)	9275
34872	7590	07/10/2007		
BASELL USA INC. INTELLECTUAL PROPERTY 912 APPLETON ROAD ELKTON, MD 21921			EXAMINER EWALD, MARIA VERONICA	
			ART UNIT 1722	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,537

Applicant(s)

ROHDE ET AL.

Examiner

Maria Veronica D. Ewald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/7/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

13 New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because figures 3 and 4 are of a generally poor quality. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

14 Claim 23 is objected to because of the following informalities: The word "further" is repeated such that claim 23 states "...device further further comprises..." Appropriate correction is required.

Claim Rejections - 35 USC § 102

15 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 4, 6 – 7, 11, 13, 16 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Nielson (U.S. 4,022,559). With respect to claims 1 – 4 and 16, Nielson teaches a device for partitioning a plastic parison to give at least one semifinished open-surface product (items 36 and 38 – figure 1; column 3, lines 56 – 58), using at least one means of portioning the plastic parison, wherein the device comprises at least one means of drive (column 4, lines 25 – 38); wherein the means of drive is a (i) smooth, profiled, and grooved surface, (ii) a coated surface or (iii) a smooth, profiled, grooved and coated surface (figure 4; column 4, lines 26 – 55); wherein the means of drive comprises at least one driven roll (item 50 – figure 4; column 4, lines 28 – 30); wherein the means of partitioning the plastic parison comprises at least one of: sharp-edged cutting units and edgeless units (items 36 and 38 – figure 4; column 4, lines 25 – 38); wherein the edgeless units are bar-shaped (figure 4).

With respect to claims 6 – 7 and 11, Nielson further teaches the units are metallic (column 3, lines 55 – 60); wherein the device comprises a holder for at least one of the means of partitioning the plastic parison and for means of drive (item 34 – figure 4); wherein the device has a means of guiding the semifinished open-surface products (column 3, lines 63 – 65).

With respect to claims 13 and 23, Nielson teaches a process comprising partitioning an extruded or coextruded plastic parison to give at least one semifinished open-surface product (column 3, lines 50 – 55), with a device comprising at least one means of partitioning a plastic parison (items 36 and 38 – figure 4), wherein the device

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comprises at least one means of drive (column 4, lines 25 – 38); wherein the process further comprises a holder (item 34 – figure 4).

Claims 1, 4, 6 – 7, 11, 13, 16 and 23 – 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn (U.S. 4,028,034). With respect to claims 1, 4, 6 – 7 and 16, Hahn teaches a device for partitioning a plastic parison to give at least one semifinished open-surface product (item 38 – figure 1; column 3, lines 10 – 25), using at least one means of portioning the plastic parison (column 3, lines 15 – 20), wherein the device comprises at least one means of drive (column 3, line 15); wherein the means of drive is a (i) smooth, profiled, and grooved surface, (ii) a coated surface or (iii) a smooth, profiled, grooved and coated surface (figure 1; column 3, lines 10 – 25); wherein the units are metallic (column 3, lines 14 – 15); wherein the device comprises a holder for at least one of the means of partitioning the plastic parison and for the means of drive (figure 1); wherein the edgeless units are bar-shaped (bar-shaped holder(s) for item 38 – figure 1).

With respect to claim 11, Hahn further teaches that the device has a means of guiding the semifinished open-surface products (column 4, lines 65 – 68).

With respect to claims 13 and 23 – 24, Hahn teaches a process comprising partitioning an extruded or coextruded plastic parison to give at least one semifinished open-surface product (column 3, lines 15 – 20), with a device comprising at least one means of partitioning a plastic parison (item 38 – figure 1), wherein the device comprises at least one means of drive (column 3, lines 15 – 16); wherein the process

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device further comprises a holder (figure 1); wherein the process is further comprised of heating or cooling at least one of the holder, the means of partitioning the plastic parison and the means of drive (column 3, lines 15 – 16 and 19 – 25).

Claims 1 – 4, 6, 10, 14, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Focke, et al. (U.S. 4,885,895). Focke, et al. teach a device for partitioning to give at least one semifinished open-surface product (items 26 and 29 – figure 1), using at least one means of portioning, wherein the device comprises at least one means of drive (column 5, lines 45 – 55); wherein the means of drive is a (i) smooth, profiled, and grooved surface, (ii) a coated surface or (iii) a smooth, profiled, grooved and coated surface (figures 2 – 3); wherein the means of drive comprises at least one driven roll (items 26 and 29 – figure 1; column 3, lines 36 – 50); wherein the means of partitioning the plastic parison comprises at least one of: sharp-edged cutting units and edgeless units (figures 2 – 3). Examiner notes that the phrase “for partitioning a plastic parison” does not impart patentability to the claim(s). Per MPEP 2115, “Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim.” Ex parte Thibault, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, “the [i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims.” In re Young, 75 F.2d 996, 25 USPQ 69 (CCPA 1935) (as restated in In re Otto, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)).

With respect to claims 6, 10, 14 and 20, Focke, et al. further teach that the units are metallic (column 3, lines 36 – 50); wherein the device comprises a holder for at least one of the means of partitioning the plastic parison and for the means of drive (figures 2 – 30); wherein the means of drive has been set into recesses on the means of portioning the plastic parison (figures 2 – 3; column 5, lines 55 – 68); wherein the means of drive comprises at least two driven rolls (items 26 and 29 – figure 1); wherein means of drive are driven rolls (items 26 and 29 – figure 1).

Claims 1 – 2, 7 – 8, 11 – 13, 21 – 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kagitani (JP 06218792 A, see translation). Kagitani teaches a device for partitioning a plastic parison to give at least one semifinished open-surface product (item 36 – figure 1), using at least one means of portioning (page 3 of translation), wherein the device comprises at least one means of drive (item 38 – figure 1; page 3 of translation); wherein the means of drive is a (i) smooth, profiled, and grooved surface, (ii) a coated surface or (iii) a smooth, profiled, grooved and coated surface (figure 1; pages 3 – 4 of translation).

With respect to claims 7 – 8, 11 – 12 and 21 – 22, the reference further teaches that the device comprises a holder for at least one of the means of partitioning the plastic parison and for the means of drive (paragraph 0006; page 3 of translation); wherein the holder is a spacer for the semifinished open-surface products (item 40 – figure 1; paragraph 0003; page 3 of translation); wherein the device has a means of guiding the semifinished open-surface products (item 42 – figure 1); wherein the means

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of guiding comprises guide rollers (item 42 – figure 1; paragraph 0003; page 3 of translation); wherein the guide rollers are driven (paragraph 0007; page 3 of translation) and wherein the guide rollers can be moved transversely to a direction of extrusion (figure 1).

With respect to claims 13 and 23, Kagitani further teaches a process comprising partitioning an extruded or coextruded plastic parison to give at least one semifinished open-surface product (figure 1; paragraph 0002 of translation), with a device comprising at least one means of partitioning a plastic parison (item 36 – figure 1), wherein the device comprises at least one means of drive (paragraph 0006; page 3 of translation); wherein the process further comprises a holder (item 38 – figure 1).

Claims 1 – 2, 4, 6 – 8, 10 – 11, 13, 16 and 23 – 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Skov, et al. (U.S. 2003/0090024). Skov, et al. teach a device for partitioning a plastic parison to give at least one semifinished open-surface product (items 36 and 38 – figure 1; item 90 – figure 17), using at least one means of portioning (paragraphs 0040 – 0041, 0049), wherein the device comprises at least one means of drive (item 44 – figure 1; paragraphs 0042, 0049); wherein the means of drive is a (i) smooth, profiled, and grooved surface, (ii) a coated surface or (iii) a smooth, profiled, grooved and coated surface (figure 1; paragraph 0042); wherein the means of partitioning the plastic parison comprises at least one of: sharp-edged cutting units and edgeless units (figure 1; paragraphs 0040 – 0042); wherein the units are metallic (paragraphs 0040 and 0049); wherein the device comprises a holder for at least

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one of the means of partitioning the plastic parison and for the means of drive (item 40 – figures 1 and 2; paragraph 0040); wherein the holder is a spacer for the semifinished open-surface products (paragraph 0045).

With respect to claims 10 – 11 and 16, the reference further teaches that the means of drive has been set into recesses on the means of partitioning the plastic parison (figures 4 – 5); wherein the device has a means of guiding the semifinished open-surface products (paragraphs 0045 and 0049); wherein the edgeless units are bar-shaped (figures 4 – 5).

With respect to claims 13 and 23 – 24, Skov, et al. teach a process comprising partitioning an extruded or coextruded plastic parison to give at least one semifinished open-surface product (paragraphs 0030, 0049), with a device comprising at least one means of partitioning a plastic parison (items 36 and 38 – figure 1; item 90 – figure 17), wherein the device comprises at least one means of drive (item 44 – figure 1; paragraph 0049); wherein the process device further comprises a holder (figure 1); wherein the process is further comprised of heating or cooling at least one of the holder, the means of partitioning the plastic parison and the means of drive (paragraph 0049).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 18 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skov, et al. Skov, et al. teach the characteristics previously described but do not teach that the means of partitioning the parison is of a triangular cross-section, comprised of metal with a plastic coating.

Skov, et al., however, do teach that the means of partitioning, slicing, severing or scoring the parison can be of a variety of cutting surfaces or cross-sections, depending on the desired separating action, material and wall thickness (paragraph 0040).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the cutting members of Skov, et al. such that it is of a triangular cross-section for the purpose of resulting in a desired separating action and/or obtaining a specified wall thickness of the sheets being produced.

Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skov, et al. Skov, et al. teach the characteristics previously described but do not explicitly teach that the sharp-edged units are exchangeable nor teaches that the units are metallic with a coating of plastic.

Skov, et al., however, do teach that the cutting members can be smooth or serrated (paragraph 0040). Furthermore, Skov, et al. teach that the cutting members can be of a variety of materials (paragraph 0051). The choice of cutting member can be dictated by the user and replaced, depending on the end result. For example, thicker walls are best cut by a serrated edge, while a smooth-edged cutting device produces an aesthetically pleasing edge (paragraph 0040):

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the cutting members of Skov, et al. such that the cutting members can be exchanged or replaced, depending on the product characteristics desired or dictated by the consumer.

References of Interest

17. Schaftingen, et al. (U.S. 2001/0015513), Sadr (U.S. 2002/0105115) and Shimizu (U.S. 4,550,008) are cited of interest to show the state of the art. Schaftingen, et al. and Sadr teach a process wherein an extruded parison is severed into two sheets by the use of blades or a cutter downstream of the extrusion die. Shimizu teaches a method of severing a parison after it is extruded from the nozzle, wherein a separating agent is used to split the parison into two sheets or sheet-type products.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVE



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7/6/07